

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BARTHOLOMEW L. JONES,

Case No. C21-1334-BJR-SKV

**Plaintiff,**

V.

DEPARTMENT OF CORRECTIONS, *et al.*,

**ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
DISMISSING ACTION WITHOUT  
PREJUDICE**

### Defendants.

This matter comes before the Court on a Report and Recommendation by the Honorable

S. Kate Vaughan, U.S. Magistrate Judge, that recommends dismissal of this action without prejudice for failure to state a viable claim for relief. Dkt. No. 10.

17 On November 2, 2021, Magistrate Judge Vaughan issued an order that: (1) declined to  
18 order service of either of the two complaints that Plaintiff has filed in this matter; and (2) granted  
19 Plaintiff leave to file an amended complaint. Dkt. No. 9. This order identified a number of  
20 deficiencies in Plaintiff's complaints, and provided Plaintiff with 30 days to file an amended  
21 complaint that addressed these deficiencies. The order specifically informed Plaintiff that if he  
22 did not file an amended complaint in a timely manner, Magistrate Judge Vaughan would  
23 recommend that this action be dismissed without prejudice.

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1        This order was mailed to Plaintiff at his address of record at the King County Jail. There  
2 is no indication in Court records that this order was returned to the Court as undeliverable to  
3 Plaintiff. Nonetheless, Plaintiff failed to file an amended complaint or to otherwise respond to  
4 the order.

5        As a result, Magistrate Judge Vaughan issued a Report and Recommendation on January  
6 31, 2022, that recommends dismissal of this action without prejudice. Court records indicate that  
7 the Report and Recommendation was mailed to Plaintiff on January 31, 2022, at his address of  
8 record at the King County Jail, but was returned to the Court as undeliverable by the U.S. Postal  
9 Service on February 26, 2022. Plaintiff has not provided notice of a change of address to the  
10 Court as required by Local Civil Rule 10(f), nor has he filed objections to the Report and  
11 Recommendation.

12       At this point, Plaintiff has had more than ample time to: (1) file an amended complaint to  
13 address the deficiencies in his complaints, as noted in Magistrate Judge Vaughan's order of  
14 November 2, 2021; and/or (2) notify the Court of any change of his address, as required by Local  
15 Civil Rule 10(f). Plaintiff has not taken either of these steps. Therefore, the Court finds and  
16 ORDERS as follows:

- 17              (1)     The Report and Recommendation (Dkt. No. 10) is approved and adopted.  
18              (2)     This action is DISMISSED without prejudice, pursuant to 28 U.S.C. §  
19 1915A(b)(1) and 28 U.S.C. § 1915(e)(2)(B), for failure to state a viable claim for relief under 42  
20 U.S.C. § 1983. This dismissal shall count as a STRIKE under 28 U.S.C. § 1915(g).

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23  
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1                   (3) The Clerk is directed to send copies of this Order to Plaintiff at his address of  
2 record and to the Honorable S. Kate Vaughan.

DATED this 18<sup>th</sup> day of March, 2022.

Barbara J. Rothstein

Barbara Jacobs Rothstein  
United States District Judge

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